

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:	)	Docket HWCA 00/01-4003
	)	
	)	
Safety-Kleen(Highland), Inc.	)	CONSENT ORDER
7979 Palm Avenue	)	
Highland, California 92281	)	Health and Safety Code
EPA ID NO. CAT000613927	)	Section 25187
	)	
Respondent.	)	
	)	

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The State Department of Toxic Substances Control (Department) and Safety-Kleen, Inc.(Respondent) enter into this Consent Order and agree as follows:

1. Respondent stores and treats hazardous waste at 7979 Palm Avenue, Highland, California (the Site). On June 9, 2000, Respondent and 73 of its affiliates filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. 101-1330, as amended (the Bankruptcy Code) in the United States Bankruptcy Court for the District of Delaware (the Bankruptcy Court). Safety-Kleen continues to operate its business and manage its property as debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. The Department inspected the Site on August 25 and 28, 2000.

3. The Department alleges the following violation:

3.1 Respondent violated section III.c.2.b. of the

Hazardous Waste Facility Permit (HWFP) and Title 22 of the California Code of regulations (22 CCR), section 66270.4(b) in that on or about August 25 and 28, 2000, Respondent exceeded the maximum authorized tank storage volume of 10,450 gallons of hazardous waste, to wit: facility daily inspection logs of storage tank system indicated that on seventeen occasions, the Respondent exceeded the hazardous waste storage volume during the following dates: November 2, 1999, by 244 gallons; November 3, 1999, by 248 gallons; November 5, 1999, by 113 gallons; November 22, 1999, by 425 gallons; November 24, 1999, by 203 gallons; November 29, 1999, by 476 gallons; December 2, 1999, by 195 gallons; December 8, 1999, by 533 gallons; December 9, 1999, by 533 gallons; December 17, 1999, by 274 gallons; December 28, 1999, by 165 gallons; February 10, 2000, by 267 gallons; February 11, 2000, by 267 gallons; March 15, 2000, by 496 gallons; March 24, 2000, by 231 gallons; May 23, 2000, by 19 gallons; and May 24, 2000, by 318 gallons.

4. A dispute exists regarding the alleged violation.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code (HSC) section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violation alleged above, but does not limit the Department

from taking appropriate enforcement action concerning other violations. However, this Order shall constitute full and complete settlement for all noncompliance associated with the exceeding the maximum authorized tank storage volumes at the Site up to and including the effective date of this Consent Order.

9. Respondent does not admit the violation alleged above; however, Respondent desires to work with the Department to resolve all issues as expeditiously as possible.

SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1.1. Immediately upon the effective date of this Order, Respondent shall store in the facility's underground hazardous waste storage tank a maximum of 10,450 gallons.

10.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Carmelita E. Lampino, Unit Chief  
Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, California 90630

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications,

schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Consent Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

10.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall

constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order. Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken

pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Consent Order.

10.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3 in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.12. Extension Requests: If Respondent is unable to

perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing.

The extension request shall include a justification for the delay.

10.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

#### 11. Penalty Assessment

11.1 The Department assesses a penalty against Respondent in the amount of Seventeen Thousand Dollars (\$17,000) for the above alleged violations. Because the violations occurred prior to the filing of Respondent's bankruptcy petition, payment of this penalty shall be made in the amount and priority as provided by the Bankruptcy Code and the Debtor's Plan of Reorganization (the Plan). Nothing in this order shall prohibit the Department from objecting to the provisions of the Plan which adversely affect payment of this penalty to the Department. Unless otherwise stated in this Consent Order, the Department reserves all other legal rights as to the bankruptcy petition and the plan.

11.2 Within 60 days of the effective date of this Consent Order, or upon such later date as the Department and the Respondent shall agree in writing, Respondent shall seek Bankruptcy Court approval to allow the State of California an unsecured, liquidated claim in Respondent's bankruptcy proceedings of \$17,000.

#### OTHER PROVISIONS

12. Respondent further agrees:

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by HSC section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: Safety-Kleen's obligation to perform under this Consent Order is expressly conditioned, and shall only become effective upon approval of this Consent Order by the Bankruptcy Court.

12.5. Integration: This Consent Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Consent



Order.

12.6. Compliance with Waste Discharge Requirements:

Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California Regional Water Quality Control Board.

Dated: 08/23/2001

Original signed by: Henry H. Taylor  
Signature of Respondent's  
Representative

Dated: 08/23/2001

Henry H. Taylor - President  
Typed or Printed Name and Title of  
Respondent's Representative

Dated: 08/27/2001

Original signed by: Nennet Alvarez  
Branch Chief  
Statewide Compliance Division  
Department of Toxic Substances  
Control